

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2018057522002**

TO: Department of Enforcement
Financial Industry Regulatory Authority (FINRA)

RE: Christopher R. Wurtzinger, Respondent
General Securities Principal
CRD No. 1921024

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Respondent Christopher R. Wurtzinger ("Respondent" or "Wurtzinger") submits this Letter of Acceptance, Waiver and Consent (AWC) for the purpose of proposing a settlement of the alleged rule violations described below. This AWC is submitted on the condition that, if accepted, FINRA will not bring any future actions against Respondent alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. Respondent hereby accepts and consents, without admitting or denying the findings, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of FINRA, or to which FINRA is a party, prior to a hearing and without an adjudication of any issue of law or fact, to the entry of the following findings by FINRA:

BACKGROUND

Respondent entered the securities industry in 1992 when he became associated with a member firm as a General Securities Representative. From April 2012 through December 2019, Wurtzinger was registered with FINRA as a General Securities Principal, as well as other registration categories, through his association with Forest Securities, Inc. ("FSI" or the "Firm"), among other firms. Wurtzinger continues to be registered with FINRA through his association with two other member firms.

RELEVANT DISCIPLINARY HISTORY

In July 2008, Respondent entered into a Consent Order with the State of Illinois Securities Department in which he neither admitted nor denied the charge of causing the filing of false or misleading registration applications with the State of Illinois in connection with four registered representatives. All respondents in that matter, including Wurtzinger, agreed to a \$10,000 fine to be imposed jointly and severally among them.

OVERVIEW

Respondent was the designated principal at FSI responsible for reviewing outside business activity requests by FSI representatives. Respondent failed to conduct a reasonable analysis into whether proposed activity of one FSI registered representative was properly characterized as an outside business activity or whether it should be treated as an outside securities activity, and also failed to document any analysis, in violation of FINRA Rules 3270 and 2010.

FACTS AND VIOLATIVE CONDUCT

1. FINRA Rules and the Firm's Procedures Governing Outside Business Activities

FINRA Rule 3270 addresses the requirements governing the outside business activities ("OBAs") of persons registered with FINRA member firms. That rule states:

No registered person may be an employee, independent contractor, sole proprietor, officer, director or partner of another person, or be compensated, or have the reasonable expectation of compensation, from any other person as a result of any business activity outside the scope of the relationship with his or her member firm, unless he or she has provided prior written notice to the member, in such form as specified by the member. Passive investments and activities subject to the requirements of Rule 3280 shall be exempted from this requirement.

The Supplementary Material to the Rule states:

.01 Obligations of Member Receiving Notice. Upon receipt of a written notice under Rule 3270, a member shall consider whether the proposed activity will: (1) interfere with or otherwise compromise the registered person's responsibilities to the member and/or the member's customers or (2) be viewed by customers or the public as part of the member's business based upon, among other factors, the nature of the proposed activity and the manner in which it will be offered. Based on the member's review of such factors, the member must evaluate the advisability of imposing specific conditions or limitations on a registered person's outside business activity, including where circumstances warrant, prohibiting the activity. A member also must evaluate the proposed activity to determine whether the activity properly is characterized as an outside business activity or whether it should be treated as an outside securities activity subject to the requirements of Rule 3280. A member must keep a record of its compliance with these obligations with respect to each written notice received and must preserve this record for the period of time and accessibility specified in SEA Rule 17a-4(e)(1).

FSI had written supervisory procedures that governed the OBAs of its representatives. Those procedures required that representatives disclose to the Firm, in writing, any OBA prior to engaging in such activity. Pursuant to these procedures, the Firm had a form called "Outside Business Activity Supplemental Questionnaire" ("OBA Form") that representatives were required to submit in seeking approval to engage in an outside business activity. The written supervisory procedures required that "compliance" approve or disapprove of the OBA request in writing, and set forth factors to be reviewed in considering the OBA request. The procedures specified that Wurtzinger was the designated principal responsible for implementing FSI's OBA procedures, including the review and approval of OBA requests and OBA Forms.

2. Woodbridge Promissory Notes

The Woodbridge Group of Companies, LLC ("Woodbridge"), was a self-advertised real-estate investment venture. Among the Woodbridge suite of products were "First Position Commercial Mortgage" promissory notes ("FPCM Notes") that were of approximately 12-months in duration and provided a "wholesale" interest rate of typically 9%, which was split between the representative and the investor. The actual FPCM Notes were entered into between investors and Woodbridge entities. The funds from those notes were pooled to provide funding to a "third party commercial borrower" for the purchase or renovation of commercial real estate.¹ In fact, many of the borrowers were not "third party commercial borrowers" but entities affiliated with Woodbridge.

On December 4, 2017, Woodbridge filed a voluntary Chapter 11 bankruptcy petition.

Three weeks after the bankruptcy filing, on December 20, 2017, the Securities and Exchange Commission filed a complaint in the United States District Court for the Southern District of Florida against Woodbridge and its former owner, Robert Shapiro, among others, claiming that Shapiro and Woodbridge operated a Ponzi scheme.² In December 2018, the U.S. District Court issued a final judgment, requiring Woodbridge and Shapiro, among other things, to disgorge their ill-gotten gains. The order also required Shapiro to pay a civil penalty.

3. Respondent's Violation of FINRA Rule 3270 and the Supplementary Material

In August 2015, a new representative ("JN") joined FSI. In December 2015, JN submitted an OBA Form, seeking to engage in "introduction and sales" of a "First Position Commercial Mortgage" program, and disclosing that he would be receiving compensation in connection this activity. Although JN did not specifically note on the OBA Form that Woodbridge was the sponsor of this program, he had previously

¹ The FPCM Notes were "securities" under *Reves v. Ernst & Young*, 494 U.S. 56, 63-67 (1990).

² *SEC v. Shapiro*, Case No. 17-24624 (S.D. Fla.). Prior to the filing of its complaint, between July and October 2017, the SEC made public filings disclosing its investigation of Woodbridge for possible fraud. In addition, the following states securities agencies had publicly charged Woodbridge with selling unregistered securities and/or making misrepresentations, among other allegations: (1) May 2015, Massachusetts, (2) July 2015, Texas, (3) October 2016, Arizona, (4) April 2017, Pennsylvania, and (5) August 2017, Michigan.

disclosed this fact to Wurtzinger in a verbal conversation and in email. Wurtzinger reviewed JN's OBA Form and approved the activity as an OBA in January 2016.

Similarly, in December 2016 and December 2017, JN submitted OBA Forms, seeking renewed approval to engage in "introduction and sales" of a "First Position Commercial Mortgage" program. In those forms, JN specifically referenced "Woodbridge," and also disclosed that he had received compensation in connection with the previous year's activity. Wurtzinger reviewed the OBA Forms and approved the activity as an OBA. From February 2016 to mid-November 2017, JN sold at least \$3,365,000 in FPCM Notes to 18 investors outside of FSI. Two of the investors were FSI customers who held 529 accounts directly with the program sponsors.

In reviewing JN's OBA Forms, Wurtzinger failed to conduct a reasonable analysis into whether the activity was properly characterized as an outside business activity or whether it should be treated as an outside securities activity. Although JN failed to disclose certain facts about the FPCM Notes,³ the OBA Forms did contain sufficient information to put Wurtzinger on notice that the proposed activity may be securities activity. In addition, there was information in the public domain that should also have triggered such an inquiry, including for example, the state regulatory actions referenced above and the fact that FPCM Notes would be pooled. Finally, in November 2016, Wurtzinger was involved in FSI's denial of another representative's request to engage in FPCM Note sales because FSI had determined that the Notes were securities. In addition to the above, Wurtzinger failed to demonstrate that he conducted any analysis required under FINRA Rule 3270.01, and failed to keep a record of any such compliance.

By virtue of the foregoing, Respondent violated FINRA Rules 3270 and 2010.

B. Respondent also consents to the imposition of the following sanctions:

A suspension of four weeks from association with any FINRA member in all principal capacities.

Respondent has submitted a sworn financial statement and demonstrated an inability to pay. In light of the financial status of Respondent, no monetary sanctions have been imposed.

Respondent understands that if he is barred or suspended from associating with any FINRA member in a principal capacity, he becomes subject to a statutory disqualification as that term is defined in Article III, Section 4 of FINRA's By-Laws, incorporating Section 3(a)(39) of the Securities Exchange Act of 1934. Accordingly, Respondent may not be associated with any FINRA member in a principal capacity during the period of the bar or suspension. See FINRA Rules 8310 and 8311. Furthermore, because Respondent is subject to a statutory disqualification during the suspension, if he remains

³ See AWC No. 2018057522001.

associated with a Member Firm in a non-suspended capacity, an application to continue that association may be required.

The sanctions imposed herein shall be effective on a date set by FINRA staff.

II.

WAIVER OF PROCEDURAL RIGHTS

Respondent specifically and voluntarily waives the following rights granted under FINRA's Code of Procedure:

- A. To have a Complaint issued specifying the allegations against him;
- B. To be notified of the Complaint and have the opportunity to answer the allegations in writing;
- C. To defend against the allegations in a disciplinary hearing before a hearing panel, to have a written record of the hearing made and to have a written decision issued; and
- D. To appeal any such decision to the National Adjudicatory Council (NAC) and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, Respondent specifically and voluntarily waives any right to claim bias or prejudgment of the Chief Legal Officer, the NAC, or any member of the NAC, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including acceptance or rejection of this AWC.

Respondent further specifically and voluntarily waives any right to claim that a person violated the ex parte prohibitions of FINRA Rule 9143 or the separation of functions prohibitions of FINRA Rule 9144, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including its acceptance or rejection.

III.

OTHER MATTERS

Respondent understands that:

- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs (ODA), pursuant to FINRA Rule 9216;

- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against Respondent; and
- C. If accepted:
1. this AWC will become part of Respondent's permanent disciplinary record and may be considered in any future action brought by FINRA or any other regulator against Respondent;
 2. this AWC will be made available through FINRA's public disclosure program in accordance with FINRA Rule 8313;
 3. FINRA may make a public announcement concerning this agreement and the subject matter thereof in accordance with FINRA Rule 8313; and
 4. Respondent may not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise, denying, directly or indirectly, any finding in this AWC or create the impression that the AWC is without factual basis. Respondent may not take any position in any proceeding brought by or on behalf of FINRA, or to which FINRA is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects Respondent's: (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.
- D. Respondent may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondent understands that he may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does not constitute factual or legal findings by FINRA, nor does it reflect the views of FINRA or its staff.

Respondent certifies that he has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; Respondent has agreed to the AWC's provisions voluntarily; and no offer, threat, inducement, or promise of any kind, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce him to submit this AWC.

Date

5/12/20

Christopher R. Wurtzinger
Respondent

Reviewed by:

Andrew May

Andrew S. May
Counsel for Respondent
Hinshaw & Culbertson LLP
151 North Franklin Street, Suite 2500
Chicago, IL 60606

Accepted by FINRA:

6/18/2020
Date

Signed on behalf of the
Director of ODA, by delegated authority

Miki Vucic Tesija

Miki Vucic Tesija
Senior Counsel
FINRA
Department of Enforcement
55 W. Monroe St., Ste. 2700
Chicago, IL 60603